

ASSEMBLY BILL

No. 2857

**Introduced by Committee on Labor and Employment
(Steinberg (Chair), Gallegos, Knox, Migden, Romero, and
Shelley)**

March 2, 2000

An act to amend Section 98.2 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 2857, as introduced, Committee on Labor and Employment. Wage and hour remedies.

Existing law provides a procedure for the adjudication of wage claims within the Department of Labor Standards Enforcement. This procedure includes its initiation through an employee complaint, investigation, administrative hearing before a hearing officer, and decision and award by the Labor Commissioner. Existing law also provides for the right of appeal of that decision with a hearing de novo by a municipal or superior court.

This bill would exempt that appeal to the municipal or superior court from the requirement of judicial arbitration applicable to specified civil proceedings in those courts.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 98.2 of the Labor Code is amended to read:

98.2. (a) Within 10 days after service of notice of an order, decision, or award the parties may seek review by filing an appeal to the municipal or superior court, in accordance with the appropriate rules of jurisdiction, where the appeal shall be heard de novo. *The de novo proceedings in the municipal or superior court shall be exempt from Section 1141.11 of the Code of Civil Procedure.* A copy of the appeal request shall be served upon the Labor Commissioner by the appellant. For purposes of computing the 10-day period after service, Section 1013 of the Code of Civil Procedure shall be applicable.

(b) If the party seeking review by filing an appeal to the municipal or superior court is unsuccessful in the appeal, the court shall determine the costs and reasonable ~~attorneys'~~ attorney's fees incurred by the other parties to the appeal, and assess that amount as a cost upon the party filing the appeal.

(c) If no notice of appeal of the order, decision, or award is filed within the period set forth in subdivision (a), the order, decision, or award shall, in the absence of fraud, be deemed the final order.

(d) The Labor Commissioner shall file, within 10 days of the order becoming final pursuant to subdivision (c), a certified copy of the final order with the clerk of the municipal or superior court, in accordance with the appropriate rules of jurisdiction, of the appropriate county unless a settlement has been reached by the parties and approved by the Labor Commissioner. Judgment shall be entered immediately by the court clerk in conformity therewith. The judgment so entered shall have the same force and effect as, and shall be subject to all of the provisions of law relating to, a judgment in a civil action, and may be enforced in the same manner as any other judgment of the court in which

1 it is entered. Enforcement of the judgment shall receive
2 court priority.

3 (e) In order to ensure judgments are satisfied, the
4 Labor Commissioner may serve upon the judgment
5 debtor personally or by first-class mail at the last known
6 address of the judgment debtor listed with the division,
7 a form similar to, and requiring the reporting of the same
8 information as, the form approved or adopted by the
9 Judicial Council for purposes of subdivision (b) of Section
10 117.19 of the Code of Civil Procedure to assist in
11 identifying the nature and location of any assets of the
12 judgment debtor.

13 The judgment debtor shall complete the form and
14 cause it to be delivered to the division at the address listed
15 on the form within 35 days after the form has been served
16 on the judgment debtor, unless the judgment has been
17 satisfied. In case of willful failure by the judgment debtor
18 to comply with this subdivision, the division or the
19 judgment creditor may request the court to apply the
20 sanctions provided in Section 708.170 of the Code of Civil
21 Procedure.

22 (f) Notwithstanding subdivision (d), the Labor
23 Commissioner may stay execution of any judgment
24 entered upon an order, decision, or award which has
25 become final upon good cause appearing therefore and
26 may impose the terms and conditions of the stay of
27 execution. A certified copy of the stay of execution shall
28 be filed with the clerk entering the judgment.

29 (g) When a judgment is satisfied in fact, otherwise
30 than by execution, the Labor Commissioner may, upon
31 the motion of either party or on its own motion, order
32 entry of satisfaction of judgment. The clerk of the court
33 shall enter a satisfaction of judgment upon the filing of a
34 certified copy of the order.

35 (h) The Labor Commissioner shall make every
36 reasonable effort to ensure that judgments are satisfied,
37 including taking all appropriate legal action and
38 requiring the employer to deposit a bond as provided in
39 Section 240.

1 (i) The judgment creditor, or the Labor
2 Commissioner as assignee of the judgment creditor, shall
3 be entitled to court costs and reasonable attorney fees for
4 enforcing the judgment which is rendered pursuant to
5 this section.

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